

AMENDED IN SENATE AUGUST 18, 2014

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN ASSEMBLY MARCH 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2734

Introduced by Committee on Insurance (Assembly Members Perea (Chair), Hagman (Vice Chair), Bradford, Ian Calderon, Cooley, Dababneh, Frazier, Gonzalez, Nestande, V. Manuel Pérez, and Wieckowski)

February 25, 2014

An act to amend Sections 922.4, 922.41, 927.2, 1775.1, 10505.1, and 11628 of the Insurance Code, to amend Sections 12251 and 12260 of the Revenue and Taxation Code, and to amend Section 38750 of the Vehicle Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2734, as amended, Committee on Insurance. Insurance: omnibus.

(1) Existing law requires every surplus line broker whose annual tax for the preceding calendar year was \$5,000 or more to make monthly installment payments on account of the annual tax on business done during the calendar year, and authorizes the Insurance Commissioner to relieve a surplus line broker of his or her obligations to make monthly payments if the broker establishes to the commissioner's satisfaction that he or she has ceased to transact business in the state, or his or her annual tax for the current year will be less than \$5,000.

This bill would raise the threshold for making monthly installment payments to \$20,000 or more in annual tax for the preceding calendar year, and would authorize the commissioner to relieve a surplus line

broker of his or her obligations to make monthly payments if his or her annual tax for the current year would be less than \$20,000.

(2) Existing law exempts nonprofit cooperative assessment associations whose membership and insurance are restricted to members of a labor union from provisions relating to the supervision or regulation of insurance with respect to the provision of job protection benefits to their members. Existing law also prohibits these associations from being a member of the California Insurance Guarantee Association for the purpose of providing insolvency insurance to each member.

This bill would provide that the job protection benefits may include accidental death benefits. The bill would prohibit these associations from being a member of any insurance guaranty association in this state and would require each policy issued in this state pursuant to these provisions to contain a specified notice.

(3) Existing law prohibits, among other things, an admitted insurer that is licensed to issue and is issuing motor vehicle liability policies from failing or refusing to accept an application for that insurance, failing or refusing to issue that insurance to the applicant, or from issuing or canceling that insurance under conditions less favorable to the insured than in other comparable cases because of specified reasons, including, but not limited to, discrimination between persons within the same geographic area. Existing law prohibits the admitted motor vehicle liability insurer from using specified characteristics, including, but not limited to, location within a geographic area, in and of itself, as a condition or risk for which a higher rate, premium, or charge is required of the insured for that insurance. Existing law also requires an admitted insurer, licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both, to submit annually to the commissioner a record of loss experience, as specified, for the geographic area, as defined, including statistical data by ZIP Code area. An insurer may satisfy its obligation to report statistical data by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data is required to be made public by the commissioner annually after examination.

This bill would instead require an insured to submit the record of loss experience for the geographic area biennially. The bill would also require statewide summary data to be submitted to the commissioner annually. The bill would also require that the reported data be made available to the public biennially.

(4) Existing law requires insurers transacting insurance in this state whose annual tax for the preceding calendar year was \$5,000 or more to make prepayments of the annual tax for the current calendar year, except as provided. The commissioner is authorized to relieve an insurer of its obligations to make prepayments if the insurer establishes to the commissioner's satisfaction that the insurer has ceased to transact business in the state, or the insurer's annual tax for the current year will be less than \$5,000.

This bill would raise the threshold for making tax prepayments to \$20,000 or more in annual tax for the preceding calendar year, and would authorize the commissioner to relieve an insurer of its obligations to make prepayments if the insurer's annual tax for the current year would be less than \$20,000.

(5) Existing law requires every insurer doing business in this state to make and file with the Insurance Commissioner financial statements exhibiting its condition and affairs as of the previous year.

Existing law requires credit for reinsurance be allowed for a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets specified requirements, including, but not limited to, when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined, for the payment of the valid claims of its United States ceding insurers, their assigns, and successors in interest. Existing law requires that at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, the commissioner may authorize a reduction in the required trustee surplus, as provided, and the minimum required trustee surplus may not be reduced to an amount less than 50% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

This bill would authorize the trustee surplus to be reduced to not less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust if the commissioner expressly finds that appropriate circumstances justify a lower level of minimum required ~~trustee~~ *trusteed* surplus.

Existing law requires that credit be allowed for a domestic insurer when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with certain requirements. The commissioner

is required to post a notice on the department's Internet Web site promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application, and the commissioner is prohibited from taking final action on the application until at least 90 days after posting the required notice.

This bill would reduce the period during which the commissioner is prohibited from taking final action on the application to 30 days after posting the required notice.

(6) Existing law, except as provided, prohibits an autonomous vehicle, as defined, from being operated on public roads until the manufacturer submits an application to the Department of Motor Vehicles, and that application is approved by the department. The application is required to contain, at a minimum, specified certifications, including, but not limited to, a certification that the manufacturer will maintain a surety bond or proof of self-insurance in an amount of \$5,000,000.

This bill would provide that the \$5,000,000 in coverage may also be in the form of an instrument of insurance.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 922.4 of the Insurance Code is amended
2 to read:
3 922.4. Credit for reinsurance shall be allowed a domestic ceding
4 insurer as either an asset or a deduction from liability on account
5 of reinsurance ceded only when the reinsurer meets the
6 requirements of subdivision (a), (b), (c), (d), or (e). Credit shall
7 be allowed under subdivision (a), (b), or (c) only for cessions of
8 those kinds or classes of business that the assuming insurer is
9 licensed or otherwise permitted to write or assume in its state of
10 domicile or, in the case of a United States branch of an alien
11 assuming insurer, in the state through which it is entered and
12 licensed to transact insurance or reinsurance.
13 (a) Credit shall be allowed when the reinsurance is ceded to an
14 assuming insurer that is licensed to transact insurance or
15 reinsurance in this state unless the assuming insurer is the subject
16 of a regulatory order or regulatory oversight by any state in which
17 it is licensed based upon a commissioner's determination that the
18 assuming insurer is in a hazardous financial condition.

1 (b) (1) Credit shall be allowed when the reinsurance is ceded
2 to an assuming insurer that is accredited as a reinsurer in this state
3 unless the assuming insurer is the subject of a regulatory order or
4 regulatory oversight by any state in which it is licensed based upon
5 a commissioner's determination that the assuming insurer is in a
6 hazardous financial condition. An accredited reinsurer is one that
7 does all of the following:

8 (A) Files with the commissioner evidence of its submission to
9 this state's jurisdiction.

10 (B) Submits to this state's authority to examine its books and
11 records.

12 (C) Designates the commissioner or a designated attorney in
13 this state as its true and lawful attorney upon whom may be served
14 any lawful process in any action, suit, or proceeding instituted by
15 or on behalf of the ceding insurer.

16 (D) Is licensed to transact insurance or reinsurance in at least
17 one state, or in the case of a United States branch of an alien
18 assuming insurer, is entered through and licensed to transact
19 insurance or reinsurance in at least one state.

20 (E) Files annually with the commissioner a copy of its annual
21 statement filed with the insurance department of its state of
22 domicile and a copy of its most recent audited financial statement
23 and other financial information requested by the commissioner.

24 (F) Submits a statement, signed and verified by an officer of
25 the assuming insurer to be true and correct, that discloses whether
26 the assuming insurer or any affiliated person who owns or has a
27 controlling interest in the assuming insurer is currently known to
28 be the subject of any of the following:

29 (i) Any order or proceeding regarding conservation, liquidation,
30 or receivership.

31 (ii) Any order or proceeding regarding the revocation or
32 suspension of a license or accreditation to transact insurance or
33 reinsurance in any jurisdiction.

34 (iii) Any order or proceeding brought by an insurance regulator
35 in any jurisdiction seeking to restrict or stop the assuming insurer
36 from transacting insurance or reinsurance based upon a hazardous
37 financial condition.

38 The assuming insurer shall provide the commissioner with copies
39 of any orders or other documents initiating proceedings subject to
40 disclosure under this paragraph. The statement shall affirm that

1 no actions, proceedings, or orders subject to this subparagraph are
2 outstanding against the assuming insurer or any affiliated person
3 who owns or has a controlling interest in the assuming insurer,
4 except as disclosed in the statement.

5 (G) Demonstrates to the satisfaction of the commissioner that
6 it has adequate financial capacity to meet its reinsurance obligations
7 and is otherwise qualified to assume reinsurance from domestic
8 insurers. An assuming insurer is deemed to meet this requirement
9 if it maintains a surplus as regards policyholders in an amount that
10 is not less than twenty million dollars (\$20,000,000) and whose
11 accreditation has not been denied by the commissioner within 90
12 days of its submission. An assuming insurer who is not deemed
13 to meet this requirement shall obtain the affirmative approval of
14 the commissioner. The approval of the commissioner shall be
15 based upon a finding that the assuming insurer has adequate
16 financial capacity to meet its reinsurance obligations and is
17 otherwise qualified to assume reinsurance from domestic insurers.

18 (2) The commissioner may deny or revoke an assuming insurer's
19 accreditation if the assuming insurer does not meet all of the
20 standards required of an accredited reinsurer, or if its accreditation
21 would be hazardous to the policyholders of this state. In
22 determining whether to deny or revoke accreditation, the
23 commissioner may consider the qualifications of the assuming
24 insurer with respect to all the following subjects:

25 (A) Its financial stability.

26 (B) The lawfulness and quality of its investments.

27 (C) The competency, character, and integrity of its management.

28 (D) The competency, character, and integrity of persons who
29 own or have a controlling interest in the assuming insurer.

30 (E) Whether claims under its contracts are promptly and fairly
31 adjusted and are promptly and fully paid in accordance with the
32 law and the terms of the contracts.

33 (3) Credit shall not be allowed a domestic ceding insurer if the
34 assuming insurer's accreditation has been revoked by the
35 commissioner after notice and hearing.

36 (c) Credit shall be allowed when the reinsurance is ceded to an
37 assuming insurer that has been certified by the commissioner
38 pursuant to Section 922.41.

39 (d) (1) Credit shall be allowed when the reinsurance is ceded
40 to an assuming insurer that maintains a trust fund in a qualified

1 United States financial institution as defined in subdivision (b) of
2 Section 922.7 for the payment of the valid claims of its United
3 States ceding insurers, their assigns, and successors in interest. To
4 enable the commissioner to determine the sufficiency of the trust
5 fund the assuming insurer shall report annually to the commissioner
6 information substantially the same as that required to be reported
7 on the NAIC Annual Statement form by licensed insurers or any
8 other form required by the NAIC.

9 (2) Credit for reinsurance shall not be granted under this
10 subdivision unless the form of the trust and any amendments to
11 the trust have been approved by either:

12 (A) The commissioner of the state where the trust is domiciled.

13 (B) The commissioner of another state who, pursuant to the
14 terms of the trust instrument, has accepted principal regulatory
15 oversight of the trust.

16 The trust and any trust amendments shall also be filed with the
17 commissioner of every state in which the ceding insurer
18 beneficiaries of the trust are domiciled. Notwithstanding the
19 foregoing, nothing in this paragraph shall prevent the commissioner
20 from disapproving the form of the trust if it is not in compliance
21 with this state's laws and regulations.

22 (3) Credit for reinsurance shall not be granted under this
23 subdivision unless the following requirements are met:

24 (A) The trust instrument shall provide that contested claims
25 shall be valid, enforceable, and payable out of funds in trust to the
26 extent remaining unsatisfied 30 days after entry of the final order
27 of any court of competent jurisdiction in the United States.

28 (B) The trust shall vest legal title to its assets in the trustees of
29 the trust for the benefit of the grantor's United States ceding
30 insurers, their assigns, and successors in interest.

31 (C) The trust and the assuming insurer shall be subject to
32 examination as determined by the commissioner.

33 (D) The trust shall remain in effect for as long as the assuming
34 insurer, or any member or former member of a group of insurers,
35 shall have outstanding obligations due under the reinsurance
36 agreements subject to the trust.

37 (E) No later than February 28 of each year, the trustees of the
38 trust shall report to the commissioner in writing setting forth the
39 balance of the trust and listing the trust's investments at the
40 preceding yearend and shall certify the date of termination of the

1 trust, if so planned, or certify that the trust shall not expire within
2 the next 18 months.

3 (F) The assuming insurer shall do both of the following:

4 (i) Submit to the jurisdiction of any court of competent
5 jurisdiction in any state of the United States, comply with all
6 requirements necessary to give the court jurisdiction, and abide
7 by the final decision of the court or of any appellate court in the
8 event of an appeal.

9 (ii) Designate the commissioner or an attorney in this state as
10 its true and lawful agent upon whom may be served any lawful
11 process in any action, suit, or proceeding instituted by or on behalf
12 of the ceding insurer.

13 This subparagraph is not intended to conflict with or override
14 the obligation of the parties to a reinsurance agreement to arbitrate
15 their disputes, if this obligation is created in the agreement.

16 (G) The assuming insurer shall agree in the trust agreement that
17 notwithstanding any other provision in the trust instrument, if the
18 trust fund is inadequate because it contains an amount less than
19 the amount required by paragraph (4), or if the grantor of the trust
20 has been declared insolvent or placed into receivership,
21 rehabilitation, liquidation, or similar proceedings under the laws
22 of its state or country of domicile:

23 (i) The trustee shall comply with an order of the commissioner
24 with regulatory oversight over the trust or with an order of a court
25 of competent jurisdiction directing the trustee to transfer to the
26 commissioner with regulatory oversight all of the assets of the
27 trust fund.

28 (ii) The assets shall be distributed by, and insurance claims shall
29 be filed with and valued by, the commissioner with regulatory
30 oversight in accordance with the laws of the state in which the
31 trust is domiciled that are applicable to the liquidation of domestic
32 insurance companies.

33 (iii) If the commissioner with regulatory oversight determines
34 that the assets of the trust fund or any part thereof are not necessary
35 to satisfy the claims of the United States ceding insurers of the
36 grantor of the trust, the assets or part thereof shall be returned by
37 the commissioner with regulatory oversight to the trustee for
38 distribution in accordance with the trust agreement.

39 (iv) The grantor hereby waives any right otherwise available to
40 it under United States law that is inconsistent with this provision.

(4) The following requirements apply to the following categories of assuming insurer:

(A) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled ceding insurers, and, in addition, the assuming insurer shall maintain a trusted surplus of not less than twenty million dollars (\$20,000,000), except as provided in subparagraph (B), (C), or (D).

(B) In the case of a group including incorporated and individual unincorporated underwriters:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust shall consist of a trusted account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group.

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this article, the trust shall consist of a trusted account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States.

(iii) In addition to the trusts required in clauses (i) and (ii), the group shall maintain in trust a trusted surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(iv) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(v) The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter ~~member~~; ~~or member~~; or, if a certification is unavailable, financial statements

1 prepared by independent public accountants of each underwriter
2 member of the group.

3 (C) In the case of a group of incorporated insurers under
4 common administration, the group shall meet all of the following
5 requirements:

6 (i) Have continuously transacted an insurance business outside
7 the United States for at least three years immediately prior to
8 making application for accreditation and be in good standing with
9 its domiciliary regulator.

10 (ii) Demonstrate that individual insurer members maintain
11 standards and financial conditions reasonably comparable to
12 admitted insurers.

13 (iii) Maintain aggregate policyholders' surplus of at least ten
14 billion dollars (\$10,000,000,000).

15 (iv) Maintain a trust fund in an amount not less than the group's
16 several liabilities attributable to business ceded by United States
17 domiciled ceding insurers to any member of the group pursuant
18 to reinsurance contracts issued in the name of such group.

19 (v) In addition, maintain a joint trustee surplus of which one
20 hundred million dollars (\$100,000,000) shall be held jointly for
21 the benefit of United States ceding insurers of any member of the
22 group as additional security for these liabilities. The commissioner
23 shall have the authority to require additional amounts to be held
24 in the trust as a condition for initial or continued accreditation if
25 the commissioner determines that these additional amounts are
26 required for the protection of ceding insurers.

27 (vi) Within 90 days after its financial statements are due to be
28 filed with the group's domiciliary regulator, make available to the
29 commissioner an annual certification of each underwriter member's
30 solvency by the member's domiciliary regulator, and financial
31 statements for each underwriter member of the group prepared by
32 its independent public accountant.

33 (D) At any time after the assuming insurer has permanently
34 discontinued underwriting new business secured by the trust for
35 at least three full years, the commissioner may authorize a
36 reduction in the required trustee surplus, but only after a finding,
37 based on an assessment of the risk, that the new required surplus
38 level is adequate for the protection of United States ceding insurers,
39 policyholders, and claimants in light of reasonably foreseeable
40 adverse loss development. The risk assessment may involve an

1 actuarial review, including an independent analysis of reserves
2 and cashflows, and shall consider all material risk factors,
3 including, when applicable, the lines of business involved, the
4 stability of the incurred loss estimates, and the effect of the surplus
5 requirements on the assuming insurer's liquidity or solvency. The
6 minimum required trustee surplus may not be reduced to an
7 amount less than 50 percent of the assuming insurer's liabilities
8 attributable to reinsurance ceded by United States ceding insurers
9 covered by the trust, unless the commissioner expressly finds that
10 appropriate circumstances justify a lower level of minimum
11 required trustee surplus, provided the minimum required trustee
12 surplus may not be reduced to an amount less than 30 percent of
13 the assuming insurer's liabilities attributable to reinsurance ceded
14 by United States ceding insurers covered by the trust.

15 (e) Credit shall be allowed when the reinsurance ceded to an
16 assuming insurer not meeting the requirements of subdivision (a),
17 (b), (c), or (d), but only as to the insurance of risks located in
18 jurisdictions where the reinsurance is required by applicable law
19 or regulation of that jurisdiction. As used in this section,
20 "jurisdiction" means state, district, or territory of the United States
21 and any lawful national government.

22 SEC. 2. Section 922.41 of the Insurance Code is amended to
23 read:

24 922.41. (a) Credit shall be allowed a domestic insurer when
25 the reinsurance is ceded to an assuming insurer that has been
26 certified by the commissioner as a reinsurer in this state and secures
27 its obligations in accordance with the requirements of this section.
28 Credit shall be allowed at all times for which statutory financial
29 statement credit for reinsurance is claimed under this section. The
30 credit allowed shall be based upon the security held by or on behalf
31 of the ceding insurer in accordance with a rating assigned to the
32 certified reinsurer by the commissioner. The security shall be in
33 a form consistent with this section, any regulations promulgated
34 by the commissioner, and Section 922.5.

35 (b) In order to be eligible for certification, the assuming insurer
36 shall meet the following requirements:

37 (1) The assuming insurer shall be domiciled and licensed to
38 transact insurance or reinsurance in a qualified jurisdiction, as
39 determined by the commissioner pursuant to subdivisions (f) and
40 (g).

1 (2) The assuming insurer shall maintain minimum capital and
2 surplus, or its equivalent, in an amount to be determined by the
3 commissioner, but no less than two hundred fifty million dollars
4 (\$250,000,000) calculated in accordance with paragraph (4) of
5 subdivision (f) of this section or Section 922.5. This requirement
6 may also be satisfied by an association including incorporated and
7 individual unincorporated underwriters having minimum capital
8 and surplus equivalents (net of liabilities) of at least two hundred
9 fifty million dollars (\$250,000,000) and a central fund containing
10 a balance of at least two hundred fifty million dollars
11 (\$250,000,000).

12 (3) The assuming insurer shall maintain financial strength ratings
13 from two or more rating agencies deemed acceptable by the
14 commissioner. These ratings shall be based on interactive
15 communication between the rating agency and the assuming insurer
16 and shall not be based solely on publicly available information.
17 These financial strength ratings will be one factor used by the
18 commissioner in determining the rating that is assigned to the
19 assuming insurer. Acceptable rating agencies include the following:

- 20 (A) Standard & Poor's.
- 21 (B) Moody's Investors Service.
- 22 (C) Fitch Ratings.
- 23 (D) A.M. Best Company.
- 24 (E) Any other nationally recognized statistical rating
25 organization.

26 (4) The assuming insurer shall agree to submit to the jurisdiction
27 of this state, appoint the commissioner or a designated attorney in
28 this state as its agent for service of process in this state, and agree
29 to provide security for 100 percent of the assuming insurer's
30 liabilities attributable to reinsurance ceded by United States ceding
31 insurers if it resists enforcement of a final United States judgment.

32 (5) The assuming insurer shall agree to meet applicable
33 information filing requirements as determined by the commissioner,
34 both with respect to an initial application for certification and on
35 an ongoing basis.

36 (6) The certified reinsurer shall comply with any other
37 requirements deemed relevant by the commissioner.

38 (c) (1) If an applicant for certification has been certified as a
39 reinsurer in a National Association of Insurance Commissioners
40 (NAIC) accredited jurisdiction, the commissioner may defer to

1 that jurisdiction's certification, and has the discretion to defer to
2 the rating assigned by that jurisdiction if the assuming insurer
3 submits a properly executed Form CR-1 (as published on the
4 department's Internet Web site), and such additional information
5 as the commissioner requires. The commissioner, however, may
6 perform an independent review and determination of any applicant.
7 The assuming insurer shall then be considered to be a certified
8 reinsurer in this state.

9 (2) If the commissioner defers to a certification determination
10 by another state, any change in the certified reinsurer's status or
11 rating in the other jurisdiction shall apply automatically in this
12 state as of the date it takes effect in the other jurisdiction unless
13 the commissioner otherwise determines. The certified reinsurer
14 shall notify the commissioner of any change in its status or rating
15 within 10 days after receiving notice of the change.

16 (3) The commissioner may withdraw recognition of the other
17 jurisdiction's rating at any time and assign a new rating in
18 accordance with subdivision (h).

19 (4) The commissioner may withdraw recognition of the other
20 jurisdiction's certification at any time, with written notice to the
21 certified reinsurer. Unless the commissioner suspends or revokes
22 the certified reinsurer's certification in accordance with this section
23 and Section 922.42, the certified reinsurer's certification shall
24 remain in good standing in this state for a period of three months,
25 which shall be extended if additional time is necessary to consider
26 the assuming insurer's application for certification in this state.

27 (d) An association, including incorporated and individual
28 unincorporated underwriters, may be a certified reinsurer. In order
29 to be eligible for certification, in addition to satisfying requirements
30 of subdivision (b), the reinsurer shall meet all of the following
31 requirements:

32 (1) The association shall satisfy its minimum capital and surplus
33 requirements through the capital and surplus equivalents (net of
34 liabilities) of the association and its members, which shall include
35 a joint central fund that may be applied to any unsatisfied
36 obligation of the association or any of its members, in an amount
37 determined by the commissioner to provide adequate protection.

38 (2) The incorporated members of the association shall not be
39 engaged in any business other than underwriting as a member of
40 the association and shall be subject to the same level of regulation

1 and solvency control by the association's domiciliary regulator as
2 are the unincorporated members.

3 (3) Within 90 days after its financial statements are due to be
4 filed with the association's domiciliary regulator, the association
5 shall provide to the commissioner an annual certification by the
6 association's domiciliary regulator of the solvency of each
7 underwriter member or, if a certification is unavailable, financial
8 statements, prepared by independent public accountants, of each
9 underwriter member of the association.

10 (e) (1) The commissioner shall post notice on the department's
11 Internet Web site promptly upon receipt of any application for
12 certification, including instructions on how members of the public
13 may respond to the application. The commissioner shall not take
14 final action on the application until at least 30 days after posting
15 the notice required by this subdivision.

16 (2) The commissioner shall issue written notice to an assuming
17 insurer that has made application and has been approved as a
18 certified reinsurer. Included in that notice shall be the rating
19 assigned the certified reinsurer in accordance with subdivision (h).
20 The commissioner shall publish a list of all certified reinsurers and
21 their ratings.

22 (f) The certified reinsurer shall agree to meet applicable
23 information filing requirements as determined by the commissioner,
24 both with respect to an initial application for certification and on
25 an ongoing basis. All information submitted by certified reinsurers
26 that is not otherwise public information subject to disclosure shall
27 be exempted from disclosure under Chapter 3.5 (commencing with
28 Section 6250) of Division 7 of Title 1 of the Government Code,
29 and shall be withheld from public disclosure. The applicable
30 information filing requirements are as follows:

31 (1) Notification within 10 days of any regulatory actions taken
32 against the certified reinsurer, any change in the provisions of its
33 domiciliary license or any change in rating by an approved rating
34 agency, including a statement describing those changes and the
35 reasons for those changes.

36 (2) Annually, Form CR-F or CR-S, as applicable pursuant to
37 the instructions published on the department's Internet Web site.

38 (3) Annually, the report of the independent auditor on the
39 financial statements of the insurance enterprise, on the basis
40 described in paragraph (4).

1 (4) Annually, audited financial statements, (audited United
2 States Generally Accepted Accounting Principles basis, if available,
3 audited International Financial Reporting Standards basis
4 statements are allowed, but must include an audited footnote
5 reconciling equity and net income to a United States Generally
6 Accepted Accounting Principles basis, or, with the written
7 permission of the commissioner, audited International Financial
8 Reporting Standards statements with reconciliation to United States
9 Generally Accepted Accounting Principles certified by an officer
10 of the company), regulatory filings, and actuarial opinion (as filed
11 with the certified reinsurer's supervisor). Upon the initial
12 certification, audited financial statements for the last three years
13 filed with the certified reinsurer's supervisor.

14 (5) At least annually, an updated list of all disputed and overdue
15 reinsurance claims regarding reinsurance assumed from United
16 States domestic ceding insurers.

17 (6) A certification from the certified reinsurer's domestic
18 regulator that the certified reinsurer is in good standing and
19 maintains capital in excess of the jurisdiction's highest regulatory
20 action level.

21 (7) Any other information that the commissioner may reasonably
22 require.

23 (g) If the commissioner certifies a non-United States domiciled
24 insurer, the commissioner shall create and publish a list of qualified
25 jurisdictions, under which an assuming insurer licensed and
26 domiciled in that jurisdiction is eligible to be considered for
27 certification by the commissioner as a certified reinsurer.

28 (1) In order to determine whether the domiciliary jurisdiction
29 of a non-United States assuming insurer is eligible to be recognized
30 as a qualified jurisdiction, the commissioner shall evaluate the
31 appropriateness and effectiveness of the reinsurance supervisory
32 system of the jurisdiction, both initially and on an ongoing basis,
33 and consider the rights, benefits, and the extent of reciprocal
34 recognition afforded by the non-United States jurisdiction to
35 reinsurers licensed and domiciled in the United States. The
36 commissioner shall determine the appropriate process for
37 evaluating the qualifications of those jurisdictions. Prior to its
38 listing, a qualified jurisdiction shall agree in writing to share
39 information and cooperate with the commissioner with respect to
40 all certified reinsurers domiciled within that jurisdiction. A

1 jurisdiction may not be recognized as a qualified jurisdiction if the
2 commissioner has determined that the jurisdiction does not
3 adequately and promptly enforce final United States judgments
4 and arbitration awards. Additional factors may be considered in
5 the discretion of the commissioner, including, but not limited to,
6 the following:

7 (A) The framework under which the assuming insurer is
8 regulated.

9 (B) The structure and authority of the domiciliary regulator with
10 regard to solvency regulation requirements and financial
11 surveillance.

12 (C) The substance of financial and operating standards for
13 assuming insurers in the domiciliary jurisdiction.

14 (D) The form and substance of financial reports required to be
15 filed or made publicly available by reinsurers in the domiciliary
16 jurisdiction and the accounting principles used.

17 (E) The domiciliary regulator's willingness to cooperate with
18 United States regulators in general and the commissioner in
19 particular.

20 (F) The history of performance by assuming insurers in the
21 domiciliary jurisdiction.

22 (G) Any documented evidence of substantial problems with the
23 enforcement of final United States judgments in the domiciliary
24 jurisdiction.

25 (H) Any relevant international standards or guidance with
26 respect to mutual recognition of reinsurance supervision adopted
27 by the International Association of Insurance Supervisors or a
28 successor organization.

29 (I) Any other matters deemed relevant by the commissioner.

30 (2) The commissioner shall consider the list of qualified
31 jurisdictions published through the NAIC committee process in
32 determining qualified jurisdictions. The commissioner may include
33 on the list published pursuant to this ~~section~~, *section* any
34 jurisdiction on the NAIC list of qualified ~~jurisdictions~~, *jurisdictions*
35 or on any equivalent list of the United States Treasury.

36 (3) If the commissioner approves a jurisdiction as qualified that
37 does not appear on either the NAIC list of qualified jurisdictions,
38 or the United States Treasury list, the commissioner shall provide
39 thoroughly documented justification in accordance with criteria
40 to be developed under this section.

1 (4) United States jurisdictions that meet the requirements for
2 accreditation under the NAIC financial standards and accreditation
3 program shall be recognized as qualified jurisdictions.

4 (5) If a certified reinsurer's domiciliary jurisdiction ceases to
5 be a qualified jurisdiction, the commissioner has the discretion to
6 suspend the reinsurer's certification indefinitely, in lieu of
7 revocation.

8 (h) The commissioner shall assign a rating to each certified
9 reinsurer, giving due consideration to the financial strength ratings
10 that have been assigned by rating agencies deemed acceptable to
11 the commissioner pursuant to this section. The commissioner shall
12 publish a list of all certified reinsurers and their ratings.

13 (1) Each certified reinsurer shall be rated on a legal entity basis,
14 with due consideration being given to the group rating where
15 appropriate, except that an association including incorporated and
16 individual unincorporated underwriters that has been approved to
17 do business as a single certified reinsurer may be evaluated on the
18 basis of its group rating. Factors that may be considered as part of
19 the evaluation process include, but are not limited to, the following:

20 (A) The certified reinsurer's financial strength rating from an
21 acceptable rating agency. The maximum rating that a certified
22 reinsurer may be assigned shall correspond to its financial strength
23 rating as set forth in clauses (i) to (vi), inclusive. The commissioner
24 shall use the lowest financial strength rating received from an
25 approved rating agency in establishing the maximum rating of a
26 certified reinsurer. A failure to obtain or maintain at least two
27 financial strength ratings from acceptable rating agencies shall
28 result in loss of eligibility for certification.

29 (i) Ratings category "Secure - 1" corresponds to A.M. Best
30 Company rating A++; Standard & Poor's rating AAA; Moody's
31 Investors Service rating Aaa; and Fitch Ratings rating AAA.

32 (ii) Ratings category "Secure - 2" corresponds to A.M. Best
33 Company rating A+; Standard & Poor's rating AA+, AA, or AA-;
34 Moody's Investors Service rating Aa1, Aa2, or Aa3; and Fitch
35 Ratings rating AA+, AA, or AA-.

36 (iii) Ratings category "Secure - 3" corresponds to A.M. Best
37 Company rating A; Standard & Poor's rating A+ or A; Moody's
38 Investors Service rating A1 or A2; and Fitch Ratings rating A+ or
39 A.

(iv) Ratings category “Secure - 4” corresponds to A.M. Best Company rating A-; Standard & Poor’s rating A-; Moody’s Investors Service rating A3; and Fitch Ratings rating A-.

(v) Ratings category “Secure - 5” corresponds to A.M. Best Company rating B++ or B+; Standard & Poor’s rating BBB+, BBB, or BBB-; Moody’s Investors Service rating Baa1, Baa2, or Baa3; and Fitch Ratings rating BBB+, BBB, or BBB-.

(vi) Ratings category “Vulnerable - 6” corresponds to A.M. Best Company rating B, B-, C++, C+, C, C-, D, E, or F; Standard & Poor’s rating BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, or R; Moody’s Investors Service rating Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, or C; and Fitch Ratings rating BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, or DD.

(B) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations.

(C) For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers).

(D) For certified reinsurers not domiciled in the United States, a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (as published on the department’s Internet Web site).

(E) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers’ Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.

(F) Regulatory actions against the certified reinsurer.

(G) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subparagraph (H).

(H) For certified reinsurers not domiciled in the United States, audited financial statements, (audited United States Generally Accepted Accounting Principles basis, if available, audited International Financial Reporting Standards basis statements are allowed, but must include an audited footnote reconciling equity

1 and net income to a United States Generally Accepted Accounting
2 Principles basis, or, with the written permission of the
3 commissioner, audited International Financial Reporting Standards
4 statements with reconciliation to United States Generally Accepted
5 Accounting Principles certified by an officer of the company),
6 regulatory filings, and actuarial opinion (as filed with the
7 non-United States jurisdiction supervisor). Upon the initial
8 application for certification, the commissioner shall consider
9 audited financial statements for the last three years filed with its
10 non-United States jurisdiction supervisor.

11 (I) The liquidation priority of obligations to a ceding insurer in
12 the certified reinsurer's domiciliary jurisdiction in the context of
13 an insolvency proceeding.

14 (J) A certified reinsurer's participation in any solvent scheme
15 of arrangement, or similar procedure, which involves United States
16 ceding insurers. The commissioner shall receive prior notice from
17 a certified reinsurer that proposes participation by the certified
18 reinsurer in a solvent scheme of arrangement.

19 (K) Any other information deemed relevant by the
20 commissioner.

21 (2) Based on the analysis conducted under subparagraph (E) of
22 paragraph (1) of a certified reinsurer's reputation for prompt
23 payment of claims, the commissioner may make appropriate
24 adjustments in the security the certified reinsurer is required to
25 post to protect its liabilities to United States ceding insurers,
26 provided that the commissioner shall, at a minimum, increase the
27 security the certified reinsurer is required to post by one rating
28 level under regulations promulgated by the commissioner, if the
29 commissioner finds either of the following:

30 (A) More than 15 percent of the certified reinsurer's ceding
31 insurance clients have overdue reinsurance recoverables on paid
32 losses of 90 days or more that are not in dispute and that exceed
33 one hundred thousand dollars (\$100,000) for each ceding insurer.

34 (B) The aggregate amount of reinsurance recoverables on paid
35 losses that are not in dispute and that are overdue by 90 days or
36 more exceeds fifty million dollars (\$50,000,000).

37 (3) The assuming insurer shall submit a properly executed Form
38 CR-1 (as published on the department's Internet Web site) as
39 evidence of its submission to the jurisdiction of this state,
40 appointment of the commissioner as an agent for service of process

1 in this state, and agreement to provide security for 100 percent of
2 the assuming insurer's liabilities attributable to reinsurance ceded
3 by United States ceding insurers if it resists enforcement of a final
4 United States judgment. The commissioner shall not certify any
5 assuming insurer that is domiciled in a jurisdiction that the
6 commissioner has determined does not adequately and promptly
7 enforce final United States judgments or arbitration awards.

8 (4) (A) In the case of a downgrade by a rating agency or other
9 disqualifying circumstance, the commissioner shall, upon written
10 notice, assign a new rating to the certified reinsurer in accordance
11 with the requirements of this subdivision.

12 (B) The commissioner shall have the authority to suspend,
13 revoke, or otherwise modify a certified reinsurer's certification at
14 any time if the certified reinsurer fails to meet its obligations or
15 security requirements under this section, or if other financial or
16 operating results of the certified reinsurer, or documented
17 significant delays in payment by the certified reinsurer, lead the
18 commissioner to reconsider the certified reinsurer's ability or
19 willingness to meet its contractual obligations.

20 (C) If the rating of a certified reinsurer is upgraded by the
21 commissioner, the certified reinsurer may meet the security
22 requirements applicable to its new rating on a prospective basis,
23 but the commissioner shall require the certified reinsurer to post
24 security under the previously applicable security requirements as
25 to all contracts in force on or before the effective date of the
26 upgraded rating. If the rating of a certified reinsurer is downgraded
27 by the commissioner, the commissioner shall require the certified
28 reinsurer to meet the security requirements applicable to its new
29 rating for all business it has assumed as a certified reinsurer.

30 (D) Upon revocation of the certification of a certified reinsurer
31 by the commissioner, the assuming insurer shall be required to
32 post security in accordance with Section 922.5 in order for the
33 ceding insurer to continue to take credit for reinsurance ceded to
34 the assuming insurer. If funds continue to be held in trust in
35 accordance with subdivision (d) of Section 922.4, the commissioner
36 may allow additional credit equal to the ceding insurer's pro rata
37 share of those funds, discounted to reflect the risk of
38 uncollectibility and anticipated expenses of trust administration.
39 Notwithstanding the change of a certified reinsurer's rating or
40 revocation of its certification, a domestic insurer that has ceded

1 reinsurance to that certified reinsurer shall not be denied credit for
2 reinsurance for a period of three months for all reinsurance ceded
3 to that certified reinsurer, unless the reinsurance is found by the
4 commissioner to be at high risk of uncollectibility.

5 (i) A certified reinsurer shall secure obligations assumed from
6 United States ceding insurers under this subdivision at a level
7 consistent with its rating. The amount of security required in order
8 for full credit to be allowed shall correspond with the following
9 requirements:

10 Ratings security required

11 Secure - 1: 0%

12 Secure - 2: 10%

13 Secure - 3: 20%

14 Secure - 4: 50%

15 Secure - 5: 75%

16 Vulnerable - 6: 100%

17 (1) In order for a domestic ceding insurer to qualify for full
18 financial statement credit for reinsurance ceded to a certified
19 reinsurer, the certified reinsurer shall maintain security in a form
20 acceptable to the commissioner and consistent with Section 922.5,
21 or in a multibeneficiary trust in accordance with subdivision (d)
22 of Section 922.4, except as otherwise provided in this subdivision.
23 In order for a domestic insurer to qualify for full financial statement
24 credit, reinsurance contracts entered into or renewed under this
25 section shall include a proper funding clause that requires the
26 certified reinsurer to provide and maintain security in an amount
27 sufficient to avoid the imposition of any financial statement penalty
28 on the ceding insurer under this section for reinsurance ceded to
29 the certified reinsurer.

30 (2) If a certified reinsurer maintains a trust to fully secure its
31 obligations subject to subdivision (d) of Section 922.4, and chooses
32 to secure its obligations incurred as a certified reinsurer in the form
33 of a multibeneficiary trust, the certified reinsurer shall maintain
34 separate trust accounts for its obligations incurred under
35 reinsurance agreements issued or renewed as a certified reinsurer
36 with reduced security as permitted by this subdivision or
37 comparable laws of other United States jurisdictions and for its
38 obligations subject to subdivision (d) of Section 922.4. It shall be
39 a condition to the grant of certification under this section that the
40 certified reinsurer shall have bound itself, by the language of the

1 trust and agreement with the commissioner with principal
2 regulatory oversight of each of those trust accounts, to fund, upon
3 termination of any of those trust accounts, out of the remaining
4 surplus of those trusts any deficiency of any other of those trust
5 accounts.

6 (3) The minimum trustee surplus requirements provided in
7 subdivision (d) of Section 922.4 are not applicable with respect to
8 a multibeneficiary trust maintained by a certified reinsurer for the
9 purpose of securing obligations incurred under this subdivision,
10 except that the trust shall maintain a minimum trustee surplus of
11 ten million dollars (\$10,000,000).

12 (4) With respect to obligations incurred by a certified reinsurer
13 under this subdivision, if the security is insufficient, the
14 commissioner shall reduce the allowable credit by an amount
15 proportionate to the deficiency, and have the discretion to impose
16 further reductions in allowable credit upon finding that there is a
17 material risk that the certified reinsurer's obligations will not be
18 paid in full when due.

19 (5) For purposes of this subdivision, a certified reinsurer whose
20 certification has been terminated for any reason shall be treated
21 as a certified reinsurer required to secure 100 percent of its
22 obligations.

23 (A) As used in this subdivision, the term "terminated" means
24 revocation, suspension, voluntary surrender, and inactive status.

25 (B) If the commissioner continues to assign a higher rating as
26 permitted by other provisions of this section, this requirement shall
27 not apply to a certified reinsurer in inactive status or to a reinsurer
28 whose certification has been suspended.

29 (6) The commissioner shall require the certified reinsurer to
30 post 100-percent security in accordance with Section 922.5, for
31 the benefit of the ceding insurer or its estate, upon the entry of an
32 order of rehabilitation, liquidation, or conservation against the
33 ceding insurer.

34 (7) Affiliated reinsurance transactions shall receive the same
35 opportunity for reduced security requirements as all other
36 reinsurance transactions.

37 (8) In order to facilitate the prompt payment of claims, a certified
38 reinsurer shall not be required to post security for catastrophe
39 recoverables for a period of one year from the date of the first
40 instance of a liability reserve entry by the ceding company as a

1 result of a loss from a catastrophic occurrence that is likely to result
2 in significant insured losses, as recognized by the commissioner.
3 The one-year deferral period is contingent upon the certified
4 reinsurer continuing to pay claims in a timely manner, as
5 determined by the commissioner, in writing. Reinsurance
6 recoverables for only the following lines of business as reported
7 on the NAIC annual financial statement related specifically to the
8 catastrophic occurrence shall be included in the deferral:

9 (A) Line 1: Fire.

10 (B) Line 2: Allied lines.

11 (C) Line 3: Farmowners' multiple peril.

12 (D) Line 4: Homeowners' multiple peril.

13 (E) Line 5: Commercial multiple peril.

14 (F) Line 9: Inland marine.

15 (G) Line 12: Earthquake.

16 (H) Line 21: Auto physical damage.

17 (9) Credit for reinsurance under this section shall apply only to
18 reinsurance contracts entered into or renewed on or after the
19 effective date of the certification of the assuming insurer. Any
20 reinsurance contract entered into prior to the effective date of the
21 certification of the assuming insurer that is subsequently amended
22 by mutual agreement of the parties to the reinsurance contract after
23 the effective date of the certification of the assuming insurer, or a
24 new reinsurance contract, covering any risk for which collateral
25 was provided previously, shall only be subject to this section with
26 respect to losses incurred and reserves reported from and after the
27 effective date of the amendment or new contract.

28 (10) Nothing in this section shall be construed to prohibit the
29 parties to a reinsurance agreement from agreeing to provisions
30 establishing security requirements that exceed the minimum
31 security requirements established for certified reinsurers under
32 this section.

33 (j) A certified reinsurer that ceases to assume new business in
34 this state may request to maintain its certification in inactive status
35 in order to continue to qualify for a reduction in security for its
36 in-force business. An inactive certified reinsurer shall continue to
37 comply with all applicable requirements of this section, and the
38 commissioner shall assign a rating that takes into account, if
39 relevant, the reasons why the reinsurer is not assuming new
40 business.

(k) Notwithstanding this section, credit for reinsurance or deduction from liability by a domestic ceding insurer for cessions to a certified reinsurer may be disallowed upon a finding by the commissioner that the application of the literal provisions of this section does not accomplish its intent, or either the financial condition of the reinsurer or the collateral or other security provided by the reinsurer does not, in substance, satisfy the credit for reinsurance requirements in Section 922.4.

(l) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 3. Section 927.2 of the Insurance Code is amended to read:

927.2. (a) (1) By July 1, 2013, each admitted insurer, with California premiums written of one hundred million dollars (\$100,000,000) or more, shall submit a report to the commissioner on its minority, women, and disabled veteran-owned business procurement efforts during the reporting period.

(2) The report shall include all of the following:

(A) The insurer's supplier diversity policy statement.

(B) The insurer's outreach and communications to minority, women, and disabled veteran business enterprises, including:

(i) How the insurer encourages and seeks out minority, women, and disabled veteran owned business enterprises to become potential suppliers.

(ii) How the insurer encourages its employees involved in procurement to seek out minority, women, and disabled veteran-owned business enterprises to become potential suppliers.

(iii) How the insurer conducts outreach and communication to minority, women, and disabled veteran business enterprises.

(iv) How the insurer supports organizations that promote or certify minority, women, and disabled veteran-owned business enterprises.

(v) Information regarding appropriate contacts at the insurer for interested business enterprises.

(C) The report shall include information about which procurements are made from ~~minority, women, and disabled veteran~~ *minority and women* business enterprises with a headquarters' address in California, ~~and from disabled veteran business enterprises, as defined in subdivision (b) of Section 927.1,~~

1 with each category aggregated separately, to the extent that
2 information is readily accessible. An insurer may also include
3 other relevant information in the report.

4 (3) An insurer that does not enter into contracts to procure goods
5 or services in California satisfies the requirements of paragraph
6 (2) by filing a statement with the commissioner attesting that it
7 does not enter into procurement contracts in California.

8 (b) Nothing in this section shall be construed to require quotas,
9 set-asides, or preferences in an admitted insurer's procurement of
10 goods or services, nor does this section apply to insurer producer
11 or licensee contracts. Admitted insurers retain the authority to use
12 business judgment to select the supplier for a particular contract.

13 (c) Nothing in this section shall preclude an admitted insurer
14 that is a member of an insurance holding company system, as
15 defined in Article 4.7 (commencing with Section 1215) of Chapter
16 2, from complying with paragraphs (1) and (2) of subdivision (a)
17 through a single filing on behalf of the entire group of affiliated
18 companies.

19 (d) Failure to file the report required by subdivision (a), by July
20 1, 2013, shall subject the admitted insurer to a civil penalty to be
21 fixed by the commissioner, not to exceed five thousand dollars
22 (\$5,000), or if the act or practice was willful, a civil penalty not
23 to exceed ten thousand dollars (\$10,000). An insurer may request,
24 and the commissioner may grant, a 30-day extension to file the
25 report if needed due to unintended or unforeseen delays. If the
26 insurer has failed to file the report within 30 days of a written
27 notice by the commissioner that the insurer has failed to file the
28 report, the commissioner may find that the failure to file the report
29 was willful and increase the civil penalty to an amount not to
30 exceed ten thousand dollars (\$10,000). The penalty imposed by
31 this section shall be enforced by the commissioner and is
32 appealable by means of any remedy provided by Section 12940,
33 or by Chapter 5 (commencing with Section 11500) of Part 1 of
34 Division 3 of Title 2 of the Government Code. This subdivision
35 is the sole means for enforcement of this section.

36 (e) Commencing July 1, 2015, each admitted insurer specified
37 in subdivision (a) shall biennially update its supplier diversity
38 report and submit the new report to the commissioner no later than
39 July 1.

(f) By September 30 of the reporting year, the commissioner shall establish and maintain a link on the department's Internet Web site that provides public access to the contents of each admitted insurer's report on minority, women, and disabled veteran-owned business procurement efforts. The commissioner shall include a statement on the department's Internet Web site that the information contained in the insurer's report on minority, women, and disabled veteran-owned businesses is provided for informational purposes only.

SEC. 4. Section 1775.1 of the Insurance Code is amended to read:

1775.1. (a) Each calendar year, every surplus line broker whose annual tax for the preceding calendar year was twenty thousand dollars (\$20,000) or more shall make monthly installment payments on account of the annual tax on business done during the current calendar year imposed by Section 1775.5.

(b) Notwithstanding any other law, the commissioner may relieve a surplus line broker of his or her obligation to make monthly payments if the broker establishes to the satisfaction of the commissioner that either the broker has ceased to transact business in this state, or his or her annual tax for the current year will be less than twenty thousand dollars (\$20,000).

SEC. 5. Section 10505.1 of the Insurance Code is amended to read:

10505.1. (a) (1) Any nonprofit cooperative assessment association, the membership and insurance in which are restricted to members of a labor union, is exempt from the provisions of this code relating to the supervision or regulation of insurance with respect to the provision of job protection benefits, including any accidental death benefits, to its members. A nonprofit cooperative assessment association established pursuant to this section is not, and shall not be, a member of the California Insurance Guarantee Association under Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1, or any other insurance guaranty association in this state.

(2) Each policy issued in this state pursuant to this section shall contain, in at least 10-point typeface on the front page and the declaration page, the following notice:

“NOTICE

1 This policy is issued by a nonprofit cooperative assessment
2 association that is not subject to CALIFORNIA insurance laws
3 and regulation and is not admitted in California. California
4 insurance guaranty funds are not available for your nonprofit
5 cooperative assessment association.”
6

7 (b) “Job protection insurance” means the business of providing
8 indemnity to conductors, engineers, motormen, brakemen,
9 switchmen, firemen, dispatchers, clerks, operators, trackmen,
10 signalmen, and maintenance of way personnel of steam and electric
11 railways and to busdrivers and truckdrivers employed by common
12 carriers for loss of position arising from discharge or suspension,
13 which indemnity is payable in installments that do not exceed the
14 average monthly wage of the insured. “Job protection insurance”
15 may include accidental death coverage insuring the member.
16 Nothing in this section is intended to regulate or define any benefit
17 delivery system which provides indemnity, as defined in this
18 section, in any manner other than the sale of insurance. Labor
19 unions providing the type of indemnity defined in this section,
20 shall be expressly exempt from any regulation by any state agency.

21 SEC. 6. Section 11628 of the Insurance Code is amended to
22 read:

23 11628. (a) (1) No admitted insurer that is licensed to issue
24 and issuing motor vehicle liability policies, as defined in Section
25 16450 of the Vehicle Code, shall fail or refuse to accept an
26 application for that insurance, to issue that insurance to an applicant
27 therefor, or issue or cancel that insurance under conditions less
28 favorable to the insured than in other comparable cases, except for
29 reasons applicable alike to persons of every characteristic listed
30 or defined in subdivision (b) or (e) of Section 51 of the Civil Code,
31 including, but not limited to, language, or persons of the same
32 geographic area; nor shall any characteristic listed or defined in
33 subdivision (b) or (e) of Section 51 of the Civil Code, including,
34 but not limited to, language, or location within a geographic area,
35 of itself, constitute a condition or risk for which a higher rate,
36 premium, or charge may be required of the insured for that
37 insurance.

38 (2) As used in this section “geographic area” means a portion
39 of this state of not less than 20 square miles defined by description
40 in the rating manual of an insurer or in the rating manual of a rating

1 bureau of which the insurer is a member or subscriber. In order
2 that geographic areas used for rating purposes may reflect
3 homogeneity of loss experience, a record of loss experience for
4 the geographic area shall include the breakdown of actual loss
5 experience statistics by ZIP Code area (as designated by the United
6 States Postal Service) within each geographic area for family
7 owned private passenger motor vehicles and lightweight
8 commercial motor vehicles, under 1 ½-ton load capacity, used for
9 local service or retail delivery, normally within a 50-mile radius
10 of garaging, and that are not part of a fleet of five or more motor
11 vehicles under one ownership. A record of loss experience for the
12 geographic area, including that statistical data by ZIP Code area,
13 shall be submitted biennially to the commissioner for examination
14 by each insurer licensed to issue and issuing motor vehicle liability
15 policies, motor vehicle physical damage policies, or both. Loss
16 experience shall include separate loss data for each type of
17 coverage, including liability or physical damage coverage,
18 underwritten. The biennial report shall include the insurer's
19 statewide loss ratio, loss adjustment expense ratio, expense ratio,
20 and combined ratio on its assigned-risk business. Statewide
21 summary data shall be submitted annually to the commissioner.
22 An insurer may satisfy its obligation to report statistical data under
23 this subdivision by providing its loss experience data and statewide
24 expense ratio and combined ratio on its assigned-risk business to
25 a rating or advisory organization for submission to the
26 commissioner. This data shall be made available to the public by
27 the commissioner biennially after examination. However, the data
28 shall be released in aggregate form by ZIP Code or statewide basis
29 in order that no individual insurer's loss experience for any specific
30 geographic area be revealed. Differentiation in rates between
31 geographical areas shall not constitute unfair discrimination.

32 (3) All information reported to the department pursuant to this
33 subdivision shall be confidential.

34 (4) As used in this section:

35 (A) "Language" means the inability to speak, read, write, or
36 comprehend the English language.

37 (B) "Dependents" shall include, but not be limited to, issue
38 regardless of generation.

39 (C) "Spouse" shall be determined without regard to current
40 marital status.

1 (b) The commissioner may require insurers with combined ratios
2 on statewide assigned-risk business that are 10 percent above the
3 mean combined ratio for all plan participants to also report the
4 following:

5 (1) The reason for the excessive ratio.

6 (2) A plan for reducing the ratio, and when the reduction can
7 be expected to occur. The commissioner may require insurers
8 subject to this subdivision to provide periodic reports on the
9 progress in reducing the combined ratio.

10 (c) (1) No admitted insurer, licensed to issue and issuing motor
11 vehicle liability insurance policies as defined in Section 16450 of
12 the Vehicle Code, shall fail or refuse to accept an application for
13 that insurance, refuse to issue that insurance to an applicant
14 therefor, or cancel that insurance solely for the reason that the
15 applicant for that insurance or any insured is employed in a specific
16 occupation, or is on active duty service in the Armed Forces of
17 the United States.

18 (2) Nothing in this section shall prohibit an insurer from doing
19 any of the following:

20 (A) Considering the occupation of the applicant or insured as
21 a condition or risk for which a higher rate or discounted rate may
22 be required or offered for coverage in the course and scope of his
23 or her occupation.

24 (B) Charging a deviated rate to any classification of risks
25 involving a specific occupation, or grouping thereof, if the rate
26 meets the requirements of Chapter 9 (commencing with Section
27 1850.4) of Part 2 of Division 1 and is based upon actuarial data
28 that demonstrates a significant actual historical differential between
29 past losses or expenses attributable to the specific occupation, or
30 grouping thereof, and the past losses or expenses attributable to
31 other classification of risks. For purposes of compiling that
32 actuarial data for a specific occupation or grouping thereof, a
33 person shall be deemed employed in the occupation in which that
34 data is compiled if any of the following is true:

35 (i) The majority of his or her employment during the previous
36 year was in the occupation.

37 (ii) The majority of his or her aggregate earnings for the
38 immediate preceding three-year period were derived from the
39 occupation.

1 (iii) The person is a member in good standing of a union that is
2 an authorized collective bargaining agent for persons engaged in
3 the occupation.

4 (3) Nothing in this section shall be construed to include in the
5 definition of “occupation” any status or activity that does not result
6 in remuneration for work done or services performed, or
7 self-employment in a business operated out of an applicant’s or
8 insured’s place of residence or persons engaged in the renting,
9 leasing, selling, repossessing, rebuilding, wrecking, or salvaging
10 of motor vehicles.

11 (d) Nothing in this section shall limit or restrict the ability of
12 an insurer to refuse to accept an application for or refuse to issue
13 or cancel insurance for the reason that it is a commercial vehicle
14 or based upon the consideration of a vehicle’s size, weight, design,
15 or intended use.

16 (e) It is the intent of the Legislature that actuarial data by
17 occupation may be examined for credibility by the commissioner
18 on the same basis as any other automobile insurance data that he
19 or she is empowered to examine.

20 (f) (1) Except as provided in Article 4 (commencing with
21 Section 11620), nothing in this section or in Article 10
22 (commencing with Section 1861.01) of Chapter 9 of Part 2 of
23 Division 1 or in any other provision of this code, shall prohibit an
24 insurer from limiting the issuance or renewal of insurance, as
25 defined in subdivision (a) of Section 660, to persons who engage
26 in, or have formerly engaged in, governmental or military service
27 or segments of categories thereof, and their spouses, dependents,
28 direct descendants, and former dependents or spouses.

29 (2) The term “military service” includes, but is not limited to,
30 officers, warrant officers, and enlisted persons, officer and warrant
31 officer candidates, cadets or midshipmen at a service academy,
32 cadets or midshipmen in advance Reserve Officer Training Corps
33 programs or on Reserve Officer Training Corps program
34 scholarships, National Guard officer candidates, students in
35 government-sponsored precommissioning programs, and foreign
36 military officers while on temporary duty in the United States.

37 (g) Any person subject to regulation by the commissioner
38 pursuant to this code who fails to comply with a data call required
39 by the department pursuant to subdivision (a) shall be liable to the
40 state for a civil penalty in an amount not exceeding five thousand

1 dollars (\$5,000) for each 30-day period that the person is not in
2 compliance, unless the failure to comply is willful, in which case
3 the civil penalty shall be in an amount not to exceed ten thousand
4 dollars (\$10,000) for each 30-day period that the person is not in
5 compliance, but not to exceed an aggregate amount of one hundred
6 thousand dollars (\$100,000). The commissioner shall collect the
7 amount so payable and may bring an action in the name of the
8 people of the State of California to enforce collection. These
9 penalties shall be in addition to other penalties provided by law.

10 (h) This section shall be known and may be cited as the
11 “Rosenthal Auto Insurance Nondiscrimination Law.”

12 SEC. 7. Section 12251 of the Revenue and Taxation Code, as
13 added by Section 13 of Chapter 33 of the Statutes of 2013, is
14 amended to read:

15 12251. (a) Each calendar year, insurers transacting insurance
16 in this state and whose annual tax for the preceding calendar year
17 was twenty thousand dollars (\$20,000) or more shall make
18 prepayments of the annual tax for the current calendar year imposed
19 by Section 28 of Article XIII of the California Constitution and
20 this part, provided that prepayments shall not be made with respect
21 to the tax on ocean marine insurance underwriting profit or any
22 retaliatory tax.

23 (b) This section shall become operative on July 1, 2013.

24 SEC. 8. Section 12260 of the Revenue and Taxation Code, as
25 added by Section 28 of Chapter 33 of the Statutes of 2013, is
26 amended to read:

27 12260. (a) Notwithstanding any other provision of this article,
28 the commissioner may relieve an insurer of its obligation to make
29 prepayments if the insurer establishes to the satisfaction of the
30 commissioner that either the insurer has ceased to transact
31 insurance in this state, or the insurer’s annual tax for the current
32 year will be less than twenty thousand dollars (\$20,000).

33 (b) This section shall become operative on July 1, 2013.

34 SEC. 9. Section 38750 of the Vehicle Code is amended to read:

35 38750. (a) For purposes of this division, the following
36 definitions apply:

37 (1) “Autonomous technology” means technology that has the
38 capability to drive a vehicle without the active physical control or
39 monitoring by a human operator.

1 (2) (A) “Autonomous vehicle” means any vehicle equipped
2 with autonomous technology that has been integrated into that
3 vehicle.

4 (B) An autonomous vehicle does not include a vehicle that is
5 equipped with one or more collision avoidance systems, including,
6 but not limited to, electronic blind spot assistance, automated
7 emergency braking systems, park assist, adaptive cruise control,
8 lane keep assist, lane departure warning, traffic jam and queuing
9 assist, or other similar systems that enhance safety or provide driver
10 assistance, but are not capable, collectively or singularly, of driving
11 the vehicle without the active control or monitoring of a human
12 operator.

13 (3) “Department” means the Department of Motor Vehicles.

14 (4) An “operator” of an autonomous vehicle is the person who
15 is seated in the driver’s ~~seat, or~~ *seat, or*, if there is no person in the
16 driver’s seat, causes the autonomous technology to engage.

17 (5) A “manufacturer” of autonomous technology is the person
18 as defined in Section 470 that originally manufactures a vehicle
19 and equips autonomous technology on the originally completed
20 vehicle or, in the case of a vehicle not originally equipped with
21 autonomous technology by the vehicle manufacturer, the person
22 that modifies the vehicle by installing autonomous technology to
23 convert it to an autonomous vehicle after the vehicle was originally
24 manufactured.

25 (b) An autonomous vehicle may be operated on public roads
26 for testing purposes by a driver who possesses the proper class of
27 license for the type of vehicle being operated if all of the following
28 requirements are met:

29 (1) The autonomous vehicle is being operated on roads in this
30 state solely by employees, contractors, or other persons designated
31 by the manufacturer of the autonomous technology.

32 (2) The driver shall be seated in the driver’s seat, monitoring
33 the safe operation of the autonomous vehicle, and capable of taking
34 over immediate manual control of the autonomous vehicle in the
35 event of an autonomous technology failure or other emergency.

36 (3) Prior to the start of testing in this state, the manufacturer
37 performing the testing shall obtain an instrument of insurance,
38 surety bond, or proof of self-insurance in the amount of five million
39 dollars (\$5,000,000), and shall provide evidence of the insurance,
40 surety bond, or self-insurance to the department in the form and

1 manner required by the department pursuant to the regulations
2 adopted pursuant to subdivision (d).

3 (c) Except as provided in subdivision (b), an autonomous vehicle
4 shall not be operated on public roads until the manufacturer submits
5 an application to the department, and that application is approved
6 by the department pursuant to the regulations adopted pursuant to
7 subdivision (d). The application shall contain, at a minimum, all
8 of the following certifications:

9 (1) A certification by the manufacturer that the autonomous
10 technology satisfies all of the following requirements:

11 (A) The autonomous vehicle has a mechanism to engage and
12 disengage the autonomous technology that is easily accessible to
13 the operator.

14 (B) The autonomous vehicle has a visual indicator inside the
15 cabin to indicate when the autonomous technology is engaged.

16 (C) The autonomous vehicle has a system to safely alert the
17 operator if an autonomous technology failure is detected while the
18 autonomous technology is engaged, and when an alert is given,
19 the system shall do either of the following:

20 (i) Require the operator to take control of the autonomous
21 vehicle.

22 (ii) If the operator does not or is unable to take control of the
23 autonomous vehicle, the autonomous vehicle shall be capable of
24 coming to a complete stop.

25 (D) The autonomous vehicle shall allow the operator to take
26 control in multiple manners, including, without limitation, through
27 the use of the brake, the accelerator pedal, or the steering wheel,
28 and it shall alert the operator that the autonomous technology has
29 been disengaged.

30 (E) The autonomous vehicle's autonomous technology meets
31 Federal Motor Vehicle Safety Standards for the vehicle's model
32 year and all other applicable safety standards and performance
33 requirements set forth in state and federal law and the regulations
34 promulgated pursuant to those laws.

35 (F) The autonomous technology does not make inoperative any
36 Federal Motor Vehicle Safety Standards for the vehicle's model
37 year and all other applicable safety standards and performance
38 requirements set forth in state and federal law and the regulations
39 promulgated pursuant to those laws.

(G) The autonomous vehicle has a separate mechanism, in addition to, and separate from, any other mechanism required by law, to capture and store the autonomous technology sensor data for at least 30 seconds before a collision occurs between the autonomous vehicle and another vehicle, object, or natural person while the vehicle is operating in autonomous mode. The autonomous technology sensor data shall be captured and stored in a read-only format by the mechanism so that the data is retained until extracted from the mechanism by an external device capable of downloading and storing the data. The data shall be preserved for three years after the date of the collision.

(2) A certification that the manufacturer has tested the autonomous technology on public roads and has complied with the testing standards, if any, established by the department pursuant to subdivision (d).

(3) A certification that the manufacturer will maintain, an instrument of insurance, a surety bond, or proof of self-insurance as specified in regulations adopted by the department pursuant to subdivision (d), in an amount of five million dollars (\$5,000,000).

(d) (1) As soon as practicable, but no later than January 1, 2015, the department shall adopt regulations setting forth requirements for the submission of evidence of insurance, surety bond, or self-insurance required by subdivision (b), and the submission and approval of an application to operate an autonomous vehicle pursuant to subdivision (c).

(2) The regulations shall include any testing, equipment, and performance standards, in addition to those established for purposes of subdivision (b), that the department concludes are necessary to ensure the safe operation of autonomous vehicles on public roads, with or without the presence of a driver inside the vehicle. In developing these regulations, the department may consult with the Department of the California Highway Patrol, the Institute of Transportation Studies at the University of California, or any other entity identified by the department that has expertise in automotive technology, automotive safety, and autonomous system design.

(3) The department may establish additional requirements by the adoption of regulations, which it determines, in consultation with the Department of the California Highway Patrol, are necessary to ensure the safe operation of autonomous vehicles on public roads, including, but not limited to, regulations regarding

1 the aggregate number of deployments of autonomous vehicles on
2 public roads, special rules for the registration of autonomous
3 vehicles, new license requirements for operators of autonomous
4 vehicles, and rules for revocation, suspension, or denial of any
5 license or any approval issued pursuant to this division.

6 (4) The department shall hold public hearings on the adoption
7 of any regulation applicable to the operation of an autonomous
8 vehicle without the presence of a driver inside the vehicle.

9 (e) (1) The department shall approve an application submitted
10 by a manufacturer pursuant to subdivision (c) if it finds that the
11 applicant has submitted all information and completed testing
12 necessary to satisfy the department that the autonomous vehicles
13 are safe to operate on public roads and the applicant has complied
14 with all requirements specified in the regulations adopted by the
15 department pursuant to subdivision (d).

16 (2) Notwithstanding paragraph (1), if the application seeks
17 approval for autonomous vehicles capable of operating without
18 the presence of a driver inside the vehicle, the department may
19 impose additional requirements it deems necessary to ensure the
20 safe operation of those vehicles, and may require the presence of
21 a driver in the driver's seat of the vehicle if it determines, based
22 on its review pursuant to paragraph (1), that such a requirement is
23 necessary to ensure the safe operation of those vehicles on public
24 roads. The department shall notify the Legislature of the receipt
25 of an application from a manufacturer seeking approval to operate
26 an autonomous vehicle capable of operating without the presence
27 of a driver inside the vehicle and approval of the application.
28 Approval of the application shall be effective no sooner than 180
29 days after the date the application is submitted.

30 (f) Nothing in this division shall limit or expand the existing
31 authority to operate autonomous vehicles on public roads, until
32 120 days after the department adopts the regulations required by
33 paragraph (1) of subdivision (d).

34 (g) Federal regulations promulgated by the National Highway
35 Traffic Safety Administration shall supersede the provisions of
36 this division when found to be in conflict with any other state law
37 or regulation.

38 (h) The manufacturer of the autonomous technology installed
39 on a vehicle shall provide a written disclosure to the purchaser of
40 an autonomous vehicle that describes what information is collected

1 by the autonomous technology equipped on the vehicle. The
2 department may promulgate regulations to assess a fee upon a
3 manufacturer that submits an application pursuant to subdivision
4 (c) to operate autonomous vehicles on public roads in an amount
5 necessary to recover all costs reasonably incurred by the
6 department.

O